IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 246 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BIPINCHANDRA A CHAUHAN

Versus

R M ENGINEERING WORKS VATVA

Appearance:

NOTICE SERVED on 6-6-1997 upon the Petitioner

MR KS NANAVATI for Respondent No. 1 - Absent

RULE SERVED for Respondent No. 2 - Absent

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 06/02/2003

ORAL JUDGEMENT

1. In this petition filed under Article 227 of the Constitution, the petitioner challenges the award of the Labour Court made on 14th June 1988, rejecting the reference on the ground that the workman had not completed 240 days and therefore, there was no question

of any breach of the statutory requirements.

2. A reference was made under Section 10(1)(c) of the Industrial Disputes Act, 1947 on 15th January 1979 of the dispute as to whether the workman should be reinstated in service with backwages. As per the demand of the workman, he was working as an electrical supervisor since 21-1-1978 against the permanent post and was discharging his duties between 7.00 a.m. and 3.30 p.m. The work of erecting an electric furnace in the factory was to be done and he was entrusted to supervise the drawings. According to him, this work continued till March 1978 and the electric furnace had started functioning in the third week of March. On 14th June 1978, the workman was relieved without there being any reason and one other employee was taken in service. According to the workman, since he had asked for the grade of electrical supervisor, his services were terminated.

3. The employer took up a stand that the workman was not appointed in any regular or permanent post. He was only temporarily engaged for the work of erection of electric furnace in the factory and as soon as that work was over, he was relieved. It was stated that the workman had not completed 240 days of service in a year and was, therefore, not entitled to any notice or notice-pay by way of compensation.

4. The Labour Court, after taking into consideration the material which was produced on record before it, held that there was no evidence to show that the workman was given any regular appointment. It was held that, from the depositions of the workman and the witnesses of the employer, it was established that the work of erecting electric furnace had started in January 1978 and was completed by June 1978. The employee was relieved on 13-6-1978 when the work of erection of the electric furnace was completed. It was also held that the employee had failed to establish that he was doing any work of maintenance. In fact, he had, in his cross-examination, admitted that all the work other than erection of electric furnace was being looked after by Shri Dave.

5. The finding of the Labour Court that the petitioner - workman was employed only for the work of erecting electric furnace and that he was relieved after that work was over, and further that he had not completed 240 days of work in a year, is a finding of fact and cannot be interfered with by this Court in exercise of

its jurisdiction under Article 227 of the Constitution which has been invoked in the present petition. The Labour Court has not committed any error in exercise of its jurisdiction and has decided the matter on the basis of the material on record without being influenced by any extraneous factors. It has taken into account all the relevant material which was on record for reaching its finding. There is, therefore, no warrant for interference with the impugned award. The petition is, therefore, rejected. Rule is discharged with no order as to costs.

[R.K.ABICHANDANI, J.]
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